

SOLICITORS/TRANSIENT MERCHANTS

OVERVIEW: Business entity/company shall submit to the Murray City Recorder's Office, a completed application(or current business license), and fees as outlined. Each solicitor shall submit to the Recorder's office, a completed application(personal data sheet). Each solicitor will also be required to complete a background investigation and pay appropriate fees. Upon approval, a police registration/identification card will be issued to the applicant.

Solicitation in parking lots, etc requires written permission from the property owner(s).

Compliance with all ordinances, rules and regulations (both State and local) is required.

5.32.020 Definitions.

1. For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Registered solicitor" means any person who has obtained a valid certificate of registration, as provided in this chapter, which is in the possession of the solicitor on his or her person while engaged in soliciting.

"Residence" means every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

"Soliciting" means any one or more of the following activities and includes peddling, hawking & canvassing:

1. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever, for any kind of consideration whatever;
2. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character;
3. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication;
4. Seeking to obtain gifts or contributions of money, clothing or any other valuable property for the support or benefit of any charitable or nonprofit association, organization, corporation or project. (Prior code § 33-1)

5.32.030 Unregistered Solicitation Prohibited.

Unless registered or otherwise exempt from the provisions of this Chapter, a person's presence in or on residential property within Murray City for the purpose of engaging in solicitation is hereby declared to be a nuisance and is punishable as set forth in this Chapter.

5.32.040 Exceptions to provisions.

Exemptions for Registration. The following activities are exempt from the registration requirements of §5.32.060 of this Chapter:

A. Invited Solicitation. Solicitation which occurs as the result of the resident's previous, express invitation to the solicitor to come onto the resident's property. The terms and provisions of this Chapter.

B. Noncommercial Speech. Speech or expression which occurs incident to political, religious educational or other noncommercial door-to-door canvassing, pamphleteering, or other dissemination of ideas not involving

the payment of funds or other consideration by residents.

C. Charitable or Educational Solicitation. Solicitation on behalf of (i) a charitable organization recognized as such under rules and regulations issued by the Internal Revenue Service pursuant to its authority under 26 U.S.C. §501; or (ii) a public school or accredited private school containing one or more of grades K through 12 located within the City limits; provided that (A) with respect to solicitation on behalf of a charitable organization, the solicitor claiming this exemption or the charitable organization has provided written verification of IRS recognition of the organization as charitable to the Murray City Registration Officer prior to the commencement of solicitation with the City; (B) with respect to solicitation on behalf of a public or accredited private school, the principal or other person authorized by the school or the applicable school district shall provide written notice to the City that the school or school district has approved the solicitation prior to the commencement of solicitation with the City; and (C) any solicitor relying on this exemption shall carry with him while soliciting written photo identification showing the nature of his affiliation with the charitable organization or public school on whose behalf he is soliciting.

D. Government Officers and Employees. The provisions of this Chapter shall not apply to officers and employees of the City, County, State or Federal government or any subdivision thereof when on official business.

5.32.050 Certificate of Registration.

All persons desiring to engage in soliciting within City who are not exempt under §5.32.040 of this Chapter shall, prior to the commencement of solicitation, obtain from the City License Administrator a Certificate of Registration as Solicitor. The executed original of this certificate shall be maintained by the City License Administrator, and a legible copy shall be worn by the solicitor at all times while soliciting and shall be produced for inspection upon the request of any resident being solicited or any Murray City Police Officer.

5.32.060 Application for Certificate, Review, Issuance, Denial.

A. Information and Documents Required. The City License Administrator shall provide a standard form for use for registration of solicitors. The applicant shall state upon oath or affirmation that the information is truthfully provided to the best of the knowledge and belief of the applicant. The applicant shall supply the following information upon the application form:

1. The applicant's true, correct and legal name, including any former names or aliases;
2. The name of any organization for which applicant will be soliciting;
3. The applicant's home and business address and the address where the applicant can be contacted locally;
4. The names and addresses of applicant's directors, officers and managers, if any;

5. Proof that either the applicant, or the organization for which applicant will be soliciting, has registered with the Utah State Department of Commerce and any other state requirements;
6. A special events sales tax number for either the applicant, or for the organization for which the applicant will be soliciting;
7. The purpose for which soliciting will be done;
8. Whether applicant has ever been denied or had revoked a permit, license or certificate of registration to solicit and, if applicable, an explanation of the circumstances of such denial or revocation;
9. The findings of a background check conducted by the Utah Bureau of Criminal Investigations (BCI). The applicant may apply for this service at the BCI offices at 3888 West 5400 South, Salt Lake City, or at such other location as the BCI shall provide from time to time. The application shall not be deemed complete until the applicant has delivered the findings of the BCI background check to the City License Administrator, and receipt of the background check by the City License Administrator shall be a condition precedent to issuance of a Certificate of Registration. No application shall be approved by the City License Administrator for any applicant with a felony conviction or a conviction of any crime involving moral turpitude, within five years of the date of application.

B. Fees. The applicant shall pay application and processing fees as set by the City from time to time; provided, however, that the total of any such fees shall not exceed the City's cost of processing an application.

C. Grounds for denial. A Certificate shall not be issued in any of the following circumstances.

1. The applicant falsified information on the application;
2. The applicant has been convicted of a felony, misdemeanor involving moral turpitude, a violation involving trafficking in controlled substances, or any violent acts against person or property, within five years of the date of application;
3. The applicant is a person against whom a judgment based upon, or a conviction for, fraud, deceit or misrepresentation has been entered within the five years of the date of application;
4. The applicant failed to supply any of the documents or information listed in §5.32.060(A) of this Chapter.
5. The applicant has been denied a Certificate under this Chapter within the year preceding

the date of application, unless the applicant has corrected the deficiency in the previous application.

6. The applicant is under eighteen years of age.

D. Proof of Identification Required. No Certificate of Registration shall be issued to any applicant until the applicant submits one of the following to establish proof of identification:

1. A valid drivers license issued by any State;
2. A valid United States Uniformed Service Identification Card;
3. A valid passport issued by the United States;
4. Any other official document issued by the United States or any State thereof which contains the name and photograph of the applicant.

E. Registration Complete with Issuance. Registration shall be deemed complete when the City License Administrator issues the Certificate of Registration. The Certificate of Registration shall be issued within five (5) business days following the applicant's completion of the application and payment of all applicable fees, unless one of the circumstances listed in §5.32.060(C) of this Chapter applies.

F. Form of Certificate and Badge.

1. Each certificate issued by the City License Administrator shall be numbered, shall list the name of the individual solicitor and of any organization on whose behalf the solicitor is authorized to solicit, the date on which the certificate expires, and shall be dated and signed by the City License Administrator or his or her authorized designee.

2. Each registered solicitor shall wear a badge prominently on his or her person, consisting of a copy of the Certificate issued by the City, a recent photograph of the solicitor, and the name and address of any entity with which the solicitor is associated. Such badge shall be worn at all times while the solicitor is engaged in soliciting.

3. All badges are and remain the property of the City.

G. Renewal. A certificate shall be valid for a period of one (1) year from the date of issuance. Any certificate in good standing may be renewed for an additional period of not to exceed one (1) year upon request of the registered solicitor and payment of a nominal renewal fee. An applicant desiring to obtain a certificate upon expiration of the one (1) year renewal period shall make a new application in accordance with the requirements of this Chapter.

H. Non-transferability. Certificates of Registration shall be issued only in the name of the applicant and the firm, corporation or association on whose behalf the applicant is authorized to solicit. The certificates are non-transferable in all respects. It shall constitute a violation of this Chapter for a solicitor whose certificate authorizes soliciting on behalf of a firm named in a certificate to solicit on behalf of any other firm, organization, or association or for any purpose other than that specified on the application. Any certificate used by a person other than the person to whom it was originally issued is void, and the City is authorized to confiscate and immediately cancel any such Certificate.

I. Certificate Registry. The City License Administrator shall maintain and make available for public inspection a record of every application received together with any information pertaining thereto, all Certificates of Registration issued, and all pending and denied applications. Each application shall be numbered in consecutive order and each Certificate issued shall be assigned a number exclusive to the registered solicitor. Each Certificate renewed shall be identified with the duplicate number of the application upon which it was initially issued. The City License Administrator shall furnish to the Chief of Police a listing of all certificates issued and renewed and such Chief or Director shall maintain such listing for public inspection and for identification.

J. Revocation of Certificate. Any Certificate of Registration issued pursuant to the provisions of this Chapter shall be revoked by the City License Administrator if, following issuance of the Certificate, the Registrant is convicted of a violation of this Chapter or commits an act or becomes subject to a condition that would disqualify him or her from receiving a Certificate. Notice of revocation shall be immediately given to the Registrant by personal service or by certified mail to the address listed on the application and to the organization for which the registrant was soliciting. Immediately upon the giving of such notice, the Certificate of Registration shall become void and shall remain so until the revocation is rescinded. Upon revocation of any Certificate the holder shall forthwith return the related badge to the City.

K. Appeal. An applicant whose registration is denied by the City License Administrator or a registrant whose certificate is revoked by the City License Administrator shall have the right to appeal such denial or revocation to the License Hearing Officer as provided in Section 5.04.080 or Section 5.04.090 as applicable.⁶

5.32.070 "No Soliciting" Notices.

A. Any occupant of a Residence may give notice his or her unwillingness to listen to solicitations solicitors by displaying at his or her residence a placard or sign no smaller than 12 square inches stating "No Soliciting," "No Solicitors," "No Trespassing" or words of similar import. Such placard or sign shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.

B. The display of a "no soliciting" or similar sign or placard shall constitute notice to any solicitor that the inhabitant of the Residence is unwilling to listen to solicitations.

C. It shall be the responsibility of the solicitor to check each Residence for the presence of any such Notice.

5.32.080 *Duties of Solicitors.*

A. It shall be a violation of this Chapter for any such solicitor to attempt to solicit at a residence at or on which has been posted a “no soliciting” sign or placard in accordance with §5.32.070 of this Chapter. Solicitors are under the legal obligation to affirmatively check each Residence for any such sign or placard. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence and shall immediately depart therefrom.

B. It is a violation of this Chapter for any person to knock on the door, ring the door bell, or in any other manner attempt to attract the attention of an occupant of a Residence that bears a “No Soliciting” or similar sign or placard. It is a violation of this Chapter for any solicitor through ruse, deception, or concealment of a purpose to solicit, to take action calculated to secure an audience with the occupant of a Residence that has posted a “No Soliciting” or similar sign or placard.

C. Any solicitor who is at any time asked by the occupant of a Residence or dwelling to leave shall immediately and peacefully depart.

5.32.090 *Deceptive Soliciting Practices Prohibited.*

A. No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.

B. A solicitor shall immediately disclose to the resident during any face-to-face solicitation (i) the name of the solicitor; (ii) the name and address of the entity with whom the solicitor is associated, and (iii) the purpose of the solicitor’s contact with the consumer.

C. No solicitor shall use a fictitious name, an alias, or any name other than his or her legal name.

D. No solicitor shall represent directly or by implication that the City endorses the solicitation, or that the granting of a Certificate implies endorsement by the City of the solicitor or his or her product or service.

5.32.100 *Time of Day.*

It shall be unlawful for any person, whether licensed or not, to solicit any person at a Residence before 8:00 a.m. or after 8:00 p.m. Mountain Time on business days or before 9:00 a.m. or after 9:00 p.m. on Saturdays, Sundays or legal holidays as set forth in Utah Code Ann. §63-13-2, unless the solicitor has express prior permission from the resident to do so.

5.32.110 *Right to Cancel Home Solicitation Sale.*

In any home solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer’s signature to a written statement

which informs the buyer of his or her unconditional right to cancel the sale on or before the third business day after the date of sale. Such notice of “Buyer’s right to cancel” shall be in the form required by §70C-5-103, Utah Code Annotated, 1953, or a current version thereof or any State of federal law modifying or amending such provision.

5.32.120 Penalties.

Any person who engages in soliciting without complying with the requirements of this Chapter or violates any other terms or provisions of this Chapter shall be guilty of a class ‘B’ Misdemeanor.

5.04.340 Investigations.

1. A. The police department shall investigate each applicant, where applicable, for such license and shall report back within seven days to the city recorder's office with a recommendation to approve or disapprove.

B. The following list of business activities are to be investigated by the police department. This list is not all inclusive and may be added to as circumstances may dictate:

1. Pawnbrokers, secondhand dealers, swap meets, flea markets;

2. Personnel agencies, employment agencies;

3. Private investigators and detectives;

4. Solicitors;

5. Gun shops;

6. Coupon book sales;

7. Beer sales (retail stores, lounges, taverns, fairgrounds, one-day gatherings, cabarets, private clubs, restaurants);

8. Escort services;

9. Coin dealers;

10. Massage establishments;

11. Public dance hall;

12. Pool hall;

13. Penny arcades;

14. Establishments which restrict admittance based solely on age. (Prior code § 16-5.3);

The entity and/or business will also need to provide the City Recorder with a current copy of their business license.

Applications may be submitted to the Murray City Records Office at:

5025 S State #113, Murray, Ut 84107

Phone: (801) 264-2676

Background Investigations and registration cards may be applied for after submitting the application to the Records office. The Murray Police department is located at:

5025 S State #206, Murray, Ut 84107

Phone: (801) 264-2673